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POSTAL REGULATORY  
COMMISSION  
OFFICE OF THE SECRETARY

June 14, 2018

The Honorable Robert Taub  
Chairman  
Postal Regulatory Commission  
901 New York Ave., NW  
Suite 200  
Washington, DC 20268

**Sec. 407 Public Comment Re: Docket No. IM2018-1**

Dear Chairman Taub,

I represent Pretika Corporation, a family owned, California based brand / manufacturer of beauty tools / skin care and haircare appliances. This letter is submitted for inclusion in the Section 407 Proceeding under Docket No. IM2018-1, with the intent of sharing Pretika's experiences in dealing with terminal dues inequities resulting from Universal Postal Union (UPU) proposals. The intent of this letter is to provide the Postal Regulatory Commission with a real-world example of how local US businesses are being adversely impacted by terminal dues inequities, as well as articulating why we believe the continuation of these terminal dues classifications are inconsistent with the standards and criteria set forth under 39 U.S.C. 3622.

Background

We recently read an article in *Homeworld Business* about the terminal dues problem where you provided a few quotes. Moreover, there has been much media attention over President Trump's tweets directed at Amazon for their own terminal dues subsidies, so we felt this was the perfect time to reach out to you. The purpose of this letter is to share Pretika's experiences in dealing with this problem, and provide you with a real-world example of how local businesses within your district are being directly impacted by terminal dues inequities.

Individual sellers from China are offering direct sales to consumers in the US via Amazon, Alibaba and Ebay. Where once the cost of shipping would have made such sales financially unviable, sellers in China have discovered that they can sell and ship single unit products at virtually no cost. This includes not only legitimate products but also counterfeit and infringing goods.

Even when websites like Amazon and Ebay comply with our request to remove infringing products the listings are often reposted the very next day. Seeing direct legal action against sellers in China is even less feasible since the products are often being sold by dozens or even hundreds of different foreign individuals and small businesses,

where the cost of stopping each one of them would far outweigh any benefit we might gain. Worst of all, taking legal action against large websites offering these products (Amazon, Ebay, etc.) is equally futile due to a recent 9<sup>th</sup> Circuit Court decision which essentially grants these sites legal immunity from the actions of their own sellers. See: *Milo & Gabby LLC v. Amazon.com, Inc.*, Case No. 2016-1290 (Fed. Cir. May 23, 2017) But even in cases where intellectual property infringement is not a problem, our business still suffers from the unfair terminal dues advantage that our competitors in China enjoy. For some product categories like ours, saving a few dollars on shipping is an *enormous* competitive advantage that can make all the difference between turning a profit and going out of business. Unfortunately that advantage is being used *against* US businesses like ours to great effect by our foreign competitors.

Where legal and financial barriers used to keep these foreign merchants from unfairly competing in the US market, those barriers have now been lifted. The result is a virtual tsunami of infringing goods flooding into the US market at virtually no cost or risk of legal liability, with potentially devastating consequences to US businesses, both locally and nation-wide. Pretika has already been impacted as we have seen a downturn in sales due to Chinese knockoffs of our own products being sold on Amazon/Alibaba, and shipped direct from China at absurdly low rates. With the expansive growth of e-commerce, the massive terminal dues inequity to Pretika and US businesses will only increase. The terminal dues inequity – created by the USPS Terminal Dues Program, extends China a competitive advantage over US businesses through making the cost of shipping product orders from halfway around the world cheaper than for US businesses to ship the product locally (domestically).

In review, Pretika and many other businesses are in desperate need of your help in reigning in the unfair terminal dues advantage that is enabling our foreign competitors, in cooperation with companies like Amazon which also benefit from terminal dues inequities, to unfairly (and often illegally) compete against our nation's manufacturing base. We see no sensible reason why a seller in China or a mega-corporation like Amazon should be charged a lower shipping rate by the USPS than a small business like ours. It is putting us at an unfair competitive disadvantage, and it needs to stop before companies like ours are put out of business.

We sincerely hope that you will continue to pursue the USPS for accurate information about the terminal dues program, and do whatever is necessary to remedy the problem within the mechanisms of the USPS and Universal Postal Union. If there is any way we can assist with this matter in the form of testimony about how the terminal dues program has adversely affected our business, please let us know.

#### Current UPU Classifications are Inconsistent with Sec. 3622 Standards

Pretika asserts that the current UPU terminal dues classifications are wholly inconsistent with the standards and criteria set forth in under 39 U.S.C. 3622. Specifically, Sec. 3622(c)(10)(B) which states that the PRC shall take into account "the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similar situated mailers, that- **do not cause unreasonable harm to the marketplace.**" Pretika asserts that the current terminal dues structure unfairly subsidizes foreign competitors and is putting US businesses at an extreme disadvantage. We would therefore assert that such harm is not only unreasonable but potentially devastating and irreparable. If the damage sustained by our own business is extrapolated across the entire US e-commerce market the amount of lost sales due to terminal dues inequities could easily reach into tens of billions of dollars per year, if not more.

Accordingly, Pretika respectfully requests that the Postal Regulatory Commission advise the Secretary of State to *reject* any UPU proposal which gives any foreign business entity a competitive advantage over US businesses per Sec. 3622(c)(10)(B). Pretika would further state that if the UPU is unwilling to propose a terminal dues structure that allows for a level commercial playing field, then it may be in our nation's best interest to consider leaving the UPU and establishing bi-lateral postal agreements that better serve our national economic interests.

Respectfully,



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cc: Congressman Kenny Marchant